

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMERICAN CIVIL LIBERTIES UNION of)
MASSACHUSETTS,)
Plaintiff,)
v.)
KATHLEEN SEBELIUS, *et al.*,)
Defendants,)
and)
UNITED STATES CONFERENCE OF)
CATHOLIC BISHOPS,)
Defendant-Intervenor.)

Civil Action No. 1:09-cv-10038-RGS
Hon. Richard G. Stearns

**PLAINTIFF'S MOTION TO UNDESIGNATE DOCUMENTS
IMPROPERLY MARKED AS "CONFIDENTIAL" BY USCCB**

Plaintiff respectfully moves this Court under the protective order entered in this case (Docket #44-1), for an order requiring Defendant-Intervenor United States Conference of Catholic Bishops (USCCB) to undesignated documents it has improperly marked as confidential. As discussed in the supporting memorandum, the parties spent months negotiating a narrow protective order after USCCB first demanded a blanket protective order. USCCB is now using that narrow protective order in a blanket fashion, marking hundreds, if not thousands, of pages as confidential, with no basis in law or fact for doing so. Perhaps most telling of its improper use of the protective order, USCCB has marked as confidential several documents that are identical to those that Plaintiff received through the Freedom of Information Act prior to the inception of this litigation.

USCCB's overdesignation of documents as confidential is not supported by the protective order or Rule 26(c), and is contrary to the First Amendment. Plaintiff therefore respectfully requests an order requiring USCCB to immediately undesignate deposition exhibits to allow them to be attached to summary judgment pleadings, without filing under seal, and to require USCCB to show good cause why the other documents should be considered confidential. Moreover, because USCCB's position is not grounded in law or fact, Plaintiff requests an award of attorneys fees under Rule 26(c)(3).

Certification Under Local Rule 37.1

The undersigned certifies that under Local Rule 37.1, counsel have conferred in good faith to resolve or narrow the issue. The government Defendants neither consent to nor oppose this motion, and, as detailed in the accompanying memorandum, Defendant-Intervenor objects to the motion. The undersigned also certifies that the provisions of Rule 37.1 have been complied with as detailed in the accompanying memorandum.

Dated: August 3, 2011

Respectfully Submitted,

s/Brigitte Amiri
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*Motion for *pro hac vice* admission granted

CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of August, a true and correct copy of the foregoing PLAINTIFF'S MOTION TO UNDESIGNATE DOCUMENTS IMPROPERLY MARKED AS "CONFIDENTIAL" BY USCCB was served on the following persons through the electronic filing system:

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Dated: August 3, 2011

s/Brigitte Amiri

BRIGITTE AMIRI